



AXLEY BRYNELSON, LLP

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July 16, 2013

**VIA EMAIL**

Ms. Kim Cheney, Town Clerk  
Town of Koshkonong  
W5609 Star School Road  
Fort Atkinson, WI 53538

Rock River Safety Patrol Commission  
Attn: Curt Backlund, Supervisor  
c/o Town of Koshkonong

Re: Town of Koshkonong  
Our File: 8278.43046

Dear Ms. Cheney and Mr. Backlund:

This letter is in response to your letter of July 11, 2013, requesting that we review a draft of the proposed legislation being offered by assembly representative Andy Jorgensen.

This legislation directs the Department of Administration (DOA) to provide certain risk management services, including liability insurance, to any intergovernmental water safety patrol unit that has jurisdiction over Lake Koshkonong. DOA will annually assess the safety patrol unit for its proportionate share of the cost of the Risk Management Program.

Your letter requests that we review the legislation; and provide you with any comments or concerns that we may have. Accordingly, please be advised as follows:

1. The amendment to Section 16.865(8) expands the definition of "Agency" to include: "...any water safety patrol unit created under Section 30.79 having jurisdiction over Lake Koshkonong and adjacent waters of the Rock River..." (Emphasis Added.) Section 30.79 deals with state aids to local water safety patrols. It provides that in the circumstances described therein, such a patrol is eligible to receive direct state aid. The statute does not relate to the "creation of water safety patrol units." The creation of these units is done by virtue of other enabling statutes. It is our view that the quoted language is an inaccurate representation of how units are credited. Accordingly, we would suggest that the quoted language read as follows:

"...and any water safety patrol unit **receiving state aids** under s. 30.79 **and** having jurisdiction over Lake Koshkonong and adjacent waters of the Rock River...."

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2. The effect of the legislation will be to essentially mandate that the Rock River Safety Patrol Commission participate in the state Risk Management program. There will be no option for the commission to elect risk management services elsewhere, or indeed public liability insurance from alternative sources. This will simply be provided by the State, through the application of the particular program. If it is the desire of the Commission to retain flexibility, then consideration should be given to allowing the particular unit to “elect” to participate. In other words, the legislation, instead of being mandatory in terms of requiring participation by the patrol unit, give to the patrol unit the ability to, in essence, “opt in” on its participation. This also raises the question of whether or not the unit once having elected to opt in, should also have the right to “opt out.” These are policy decisions best addressed by the Commission in terms of taking a position relative to the enactment of the legislation.

Other than the foregoing, we have no other comments.

Sincerely,

AXLEY BRYNELSON, LLP



Timothy D. Fenner  
TDF:avr